

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2009-094649

03/01/2010

COMMISSIONER ROGER L. HARTSELL

CLERK OF THE COURT
W. Brown
Deputy

IN RE THE MATTER OF
DENNIS K SHARKEY AND PATRICIA A.
SHARKEY

DENNIS K SHARKEY AND PATRICIA
A. SHARKEY
2165 BUTLER DR
MARYSVILLE CA 95901

AND

KENNETH A SCOTT

KENNETH A SCOTT
426 S 99TH ST
MESA AZ 85208

JUDGE ABRAMS

MINUTE ENTRY

Courtroom 301, Central Court Building

2:07 p.m. This is the time set for Default Hearing regarding Grandparents' Petition for Non-Parent Custody Pursuant to A.R.S. §25-415 (In Loco Parentis) filed on December 18, 2009. Petitioner/Grandparent, Dennis K. Sharkey, is present on his own behalf. Co-Petitioner/Grandparent, Patricia A. Sharkey, is present on her own behalf. Respondent, Kenneth A. Scott, is neither present nor represented by counsel.

A record of the proceedings is made by audio and/or videotape in lieu of a court reporter.

Dennis K. Sharkey is sworn and testifies.

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Patricia A. Sharkey is sworn and testifies.

Based on the testimony presented,

THE COURT FINDS that the minor child the subject of these proceedings is Lidia Renee Scott, born January 19, 2003.

THE COURT FURTHER FINDS that the parents of the minor child are Kenneth Scott, father, and Belinda D. Scott, mother.

THE COURT FURTHER FINDS that the mother of the minor child died on July 20, 2009.

THE COURT FURTHER FINDS that Petitioners herein are the parents of Belinda D. Scott, and the maternal grandparents of the minor child Lidia Renee Scott.

THE COURT FURTHER FINDS that Respondent/Father, Kenneth Scott, was served with Petitioner's Petition for In Loco Parentis (Grandparent) Custody on December 29, 2009, by delivery by Federal Express, and that no response has been filed by Respondent, Kenneth Scott, as of the date of the hearing.

THE COURT FURTHER FINDS that Petitioners stand in the status of "in loco parentis" to the child, as the minor child previously resided in their residence on a full-time basis, prior to the death of their daughter, the child's mother, and that Father, Kenneth Scott, removed the minor child from the residence of Grandparent/Petitioner's on the date of death of their daughter (the minor's mother).

THE COURT FURTHER FINDS that it would be significantly detrimental to the best interest of the child to remain in the custody of Father, including that Father has a history of domestic violence and drug abuse; that Father has not had a consistent residence for the minor child since July 20, 2009; that Father has previously physically assaulted the minor child; that Father has failed to allow Petitioners to visit with the minor child; and that Father has obstructed the visitation of the minor child with Petitioners.

THE COURT FURTHER FINDS that Respondent has not abided by the terms of the Memorandum of Understanding issued by Pima County Juvenile Court (File: J-191641) on September 22, 2009, regarding providing access to the minor child by Grandparents. (This case has been dismissed.)

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THE COURT FURTHER FINDS that Arizona Rules of Family Law Procedure, Rule 44 (B)(2) provides that a defaulted party is “in the position of having admitted each and every material allegation of the petition.”

THE COURT FURTHER FINDS that A.R.S. §25-415(A) provides that an order for custody of a minor child may be made in favor of a non-parent, based upon clear and convincing evidence that it is not in the best interest of the minor child to remain in the custody of a natural parent.

THE COURT FURTHER FINDS, based upon clear and convincing evidence, that it is NOT in the best interest of the minor child, Lidia Renee Scott (DOB: 01/19/2003), to remain in the custody of Respondent, Kenneth A. Scott, at this time.

Based upon the findings of the Court,

IT IS ORDERED that Grandparents, Dennis K. Sharkey and Patricia A. Sharkey, shall have sole custody of the minor child, Lidia Renee Scott (DOB: 01/19/2003), all in accordance with the formal written Order for Non-Parent Custody Pursuant to A.R.S. §25-415 (In Loco Parentis) signed by the Court on March 1, 2010, and entered (filed) by the Clerk on March 1, 2010.

IT IS FURTHER ORDERED that Respondent shall immediately surrender the minor child to Grandparents.

RESOLVED: Custody.

2:31 p.m. Matter concludes.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: <http://www.superiorcourt.maricopa.gov/SuperiorCourt/Self-ServiceCenter>.